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## Appeal Decision

Site visit made on 1 May 2019

**by N Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 October 2019**

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**Appeal Ref: APP/D1780/W/18/3219002**

**208 Warren Avenue, Southampton, SO16 6AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr P Grant (Homelife) against the decision of Southampton City Council.
  - The application Ref 18/01678/FUL, dated 3 September 2018, was refused by notice dated 5 December 2018.
  - The application sought planning permission for redevelopment of the site to the rear of 28-64 Winchester Road and 204-218 Warren Avenue to include the construction of a new part 2-storey and part 3-storey building to provide 14 flats (9 x 2 bedroom, 3 x 3 bedroom, 2 x 4 bedroom) with access from Warren Avenue without complying with a condition attached to planning permission Ref 14/00676/FUL, dated 18 August 2015.
  - The condition in dispute is No 29 which states that: the development hereby permitted shall be carried out in accordance with the approved plans.
  - The reasons given for the conditions is: For the avoidance of doubt and in the interests of proper planning.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the planning application process, the appellant provided the Council with revised plans. The Council tells me that it did not formally accept those plans or consult upon them. The earlier plans rather than the revised ones were listed on the Council's decision notice. I noted on my visit that the situation on site more closely reflects that shown on the revised plans. The appellant has requested that I consider the revised, rather than the original plans and the Council has requested that I do not.
3. The Council's concern is that the revised plans show amendments to the original scheme outside of the scope of the original application, including changes to the landscaping scheme and the housing mix. In these circumstances, given that no consultation has apparently taken place, to accept these plans would prejudice interested parties and so my decision relates to the original plans.
4. That said, given the overall conclusions that I have reached on this appeal, were I to reach no conclusions on the revisions, it seems likely to me that the

appellant would submit a new planning application for the them to the Council, and my finding on them now could save time in the long run. On that basis, I have also concluded on the revisions, in so far as they relate to the main issues, in order to seek to ensure that this decision is as useful as possible to the parties.

## **Background and Main Issues**

5. Planning permission was granted in 2015 for a residential development at the appeal site. A condition attached to that permission (condition 29) required that the development be carried out in accordance with the approved plans. The appeal application seeks to replace two of the approved plans, with the effect being the following amendments to the scheme:
  - The access road would be finished in tarmac rather than block paving; and
  - The refuse and cycle storage areas would be located outside the main building.
6. Therefore, the main issues in this case are:
  - The effect of the proposal on the character and appearance of the area;
  - The effect of the proposal on highways safety;
  - The effect of the proposal on surface water drainage;
  - Whether arrangements for the storage of cycle parking would be acceptable; and
  - Whether arrangements for the storage and collection of refuse would be acceptable.

## **Reasons**

### *Character and appearance*

7. The road through the site is surfaced in tarmac, rather than block paving. The tarmac has a much less visually pleasing and lower quality appearance than block paving and undermines the quality of the development overall. I appreciate that tarmac is widely used in new housing developments, including, perhaps, at other sites in Southampton and that the overall appearance of the road could be regarded as a visual improvement against the track at the site before development commenced.
8. However, the National Planning Policy Framework is clear at paragraph 130 that decision makers should 'seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme (for example, through changes to approved details such as materials'.
9. As built, parts of the access road continue to be surfaced in block paving. These include the area around the access from the road, a car passing point and around rumble strips along the road. The rest of the road is surfaced in tarmac. Whilst an improvement against the proposed scheme, including because the access from the road is the most publicly visible area, I do not consider that the fairly limited use of block paving increases the quality of the scheme to an acceptable level. The appearance of the development is still substantially poorer than the approved scheme.

10. It is clear to me that the overall design quality of the development has been materially diminished by the introduction of extensive areas of tarmac in both the originally proposed and 'as-built', revised scenarios.
11. Accordingly, I find that the effect of the proposals on the character and appearance of the area would be unacceptable, in conflict with Policy CS13 of the Local Development Framework Core Strategy Development Plan Document Partial Review 2015 ('the CS'), saved policies SBD1, SBD7, SBD9, SPD12 and H7 of the City of Southampton Local Plan Review 2015 ('the LP') in so far as they seek to secure high quality design and the Residential Design Guide Supplementary Planning Document 2006.

#### *Highway safety*

12. The access road is not to be served by pavements, so pedestrians entering and leaving the site share it with cyclists and vehicles. The approved scheme, in block paving had the character of a space shared between all users. The use of paving would likely have slowed cars using the road down because it would have been clear that it was not a standard road and that care needed to be taken.
13. Conversely, large areas of tarmac, even with rumble strips marked with a different material, create a character more akin to a standard road, where drivers would be more likely to drive more quickly and/or feel as though they have a greater degree of priority. The result would be that conflicts between different types of road users would be more likely and that pedestrians and cyclists would likely feel less secure and comfortable using the space. This is particularly the case given that at points, the road is very narrow.
14. I do not agree with the appellant, that using block paving throughout would result in a less desirable scenario than a mix of materials that includes tarmac because I consider that it is the use of large areas of tarmac that is problematic, rather than how varied the surface materials used are. This would be the case in either the proposed or the 'as-built' scenarios because both include large areas of tarmac in place of block paving.
15. For these reasons, I conclude that the effect of the proposal on highway safety would not be acceptable, in conflict with Policy CS13 of the CS and policies SDP1, SPD4 and SPD11 of the LP, in so far as they seek to secure a safe and conformable environment for all road users, and the Design Guide SPD. Of the development plan policies and guidance referred to me by the Council I consider these to be the most relevant.

#### *Surface water drainage*

16. A further concern of the Council is that the use of tarmac could make it more difficult for surface water to drain from the site properly when compared with the approved block paving. Given the proposed change in surfacing materials, and the previous greenfield status of the site, it seems to me that the onus should sit with the appellant to have provided technical evidence that the arrangements would continue to be appropriate. I note that a short letter from a civil engineer has been provided but, in itself, that does not do enough to satisfy me that the drainage arrangements at the site would continue to be acceptable or that tarmac, as opposed to block paving would not increase surface water run-off and the risk of localised flooding.

17. Based on the evidence before me, I am not satisfied that the change in surface materials has resulted in acceptable management of surface water at the site and that it would be in compliance with policies CS20 and CS23 of the CS and the Residential Design Guide 2006, in so far as they seek to secure that drainage is properly managed.

*Cycle storage*

18. In the approved scenario, cycles would be stored within the main body of the building. It is proposed that it would be stored externally, across the access road in a wooden shelter. The Council's Residential Design Guidance 2006 states that a sequential approach should be taken to the siting of cycle parking and internal opportunities should be first discounted before external storage is accepted.
19. There is no evidence before me to suggest that such a sequential analysis has taken place and that in the 'as-built' scenario, cycle storage is internal clearly demonstrates that it is possible at this development.
20. Accordingly, as proposed, I find that the arrangements for the storage of cycles would not be acceptable, in conflict with policies SDP1, SDP4 and SDP11 of the LP and policies CS13 and CS19 of the CS, in so far as they seek to secure the appropriate siting of cycle storage at new developments and the facilitation of sustainable transport methods.

*Refuse storage and collection*

21. The approved location of the bin store was within the building, at its eastern end. The appellant has described that it is no longer possible to relocate a substation in front of that building, which means that the store could not be easily accessed. The Council disputes this, suggesting that subject to forming a level access, the store could be accessed.
22. In any event, it is now proposed that the store would be a standalone wooden building on the other side of the access road. The Council is concerned that this location is too far from some of the flats and so could not be conveniently used. Both parties refer me to the standards set out in the Design Guide, which say that residents should not need to carry refuse for more than 30m, although there is dispute between them as to whether that standard is met in all cases.
23. Those with the furthest to travel would be those in the properties at the western end of the building. It seems to me that journeys to the store for those residents would be very similar in either scenario, with the only real difference being whether they turn left or right, across the road at the point that they reached the location of the substation. I do not see that the proposed arrangements would be materially worse for residents than those which are approved. That said, residents would need to cross the road with their refuse to the storage area, which heightens the concerns that I have described relating to the shared use of the roadway in the materials now proposed.
24. The Council is also concerned that a building made from wood would not have a long enough lifespan. I see no reason why, subject to proper management and maintenance, a wooden building could not remain in place for a prolonged period. It is not uncommon for ancillary structures like these to be made from wood and to function successfully. I do not consider that the design or location

of the store would be harmful to the character of the area, subject to landscape planning around it, that could be controlled by condition.

25. For these reasons, I find that the relocation of the refuse store would be acceptable and in accordance with policies SDP1 and SDP11 of the LP, Policy CS13 of the CS and the Residential Design Guide SPD, in so far as they seek to ensure that the design and location of refuse storage is acceptable.

### **Conclusions**

26. For the reasons that I have described, whilst I have found with the appellant in so far as the proposal relate to the storage and collection of refuse, I have found with the Council on matters relating to character and appearance, drainage at the site and the storage of cycles.

27. Accordingly, the appeal is dismissed.

*N Smith*

INSPECTOR